

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

DAVID W. FOLEY, JR.; and
JENNIFER T. FOLEY,

Plaintiffs,

v.

Case No. 6:22-cv-456-RBD-EJK

ORANGE COUNTY; ASIMA AZAM;
TIM BOLDIG; FRED BRUMMER;
RICHARD CROTTY; FRANK
DETOMA; MILDRED FERNANDEZ;
MITCH GORDON; TARA GOULD;
CAROL HOSSFELD; TERESA
JACOBS; RODERICK LOVE;
ROCCO RELVINI; SCOTT
RICHMAN; JOE ROBERTS;
MARCUS ROBINSON; TIFFANY
RUSSELL; BILL SEGAL; PHIL
SMITH; and LINDA STEWART,

Defendants.

ORDER

The Court previously dismissed the *pro se* Plaintiffs' case with prejudice on the basis of res judicata. (Doc. 70.) The Employee Defendants¹ then moved for sanctions against Plaintiffs. (Doc. 73; *see* Doc. 90.) And all Defendants moved to declare Plaintiffs vexatious litigants, on the ground that they have continued to

¹ The Employee Defendants are Phil Smith, Mitch Gordon, Rocco Relvini, Tara Gould, Tim Boldig, and Carol Hossfield.

pursue this frivolous litigation for more than a decade. (Doc. 100; *see* Doc. 107.)

Both motions were referred to U.S. Magistrate Judge Embry J. Kidd, who entered a Report and Recommendation submitting that the Court should decline to impose monetary sanctions but should declare Plaintiffs vexatious litigants and restrict their ability to file additional lawsuits in federal court. (Doc. 151 (“R&R”).) Plaintiffs then objected to the R&R on the ground that their history of litigation was not frivolous and they filed the suits in good faith. (Doc. 154.) Orange County (Doc. 157)² and the Official Defendants³ (Doc. 159) responded in support of the R&R.

After an independent *de novo* review of the record, the motions, and the objection, the Court agrees with Judge Kidd’s R&R. *See* 28 U.S.C. § 636(b)(1); *Ernest S. ex rel. Jeffrey S. v. State Bd. of Educ.*, 896 F.2d 507, 513 (11th Cir. 1990).

Not only has Plaintiffs’ continued pursuit of this litigation been ill-fated (as this Court and others have told them repeatedly), harassing to Defendants, and highly burdensome to the Court, but Plaintiffs have also lobbed ad hominem insults at Defendants and the Court along the way. (*See* Doc. 104.) It is time for this to stop. *See Patterson v. Aiken*, 841 F.2d 386, 387 (11th Cir. 1988) (“[O]ne acting *pro*

² The Employee Defendants joined Orange County’s response. (Doc. 160.)

³ The Official Defendants are Linda Stewart, Bill Segal, Frank Detoma, Mildred Fernandez, Teresa Jacobs, Roderick Love, Scott Richman, Joe Roberts, Marcus Robinson, Tiffany Russell, Asima Azam, Fred Brummer, and Richard Crotty.

se has no license to harass others, clog the judicial machinery with meritless litigation, and abuse already overloaded court dockets.” (cleaned up)). Plaintiffs’ objections have no merit, as Judge Kidd’s thorough and well-reasoned examination of the relevant factors strongly supports the finding that this litigation is vexatious. (Doc. 151, pp. 6–10; see Doc. 104); *Ray v. Lowder*, No. 5:02-cv-316, 2003 WL 22384806, at *2–3 (M.D. Fla. Aug. 29, 2003). The Undersigned’s long history with Plaintiffs suggests that restricting their filing privileges is the only way to deter them from continuing this nonmeritorious “obsessive litigation,” as Judge Kidd aptly put it. (Doc. 151, p. 10.)

Accordingly, it is **ORDERED AND ADJUDGED**:

1. The Objection (Doc. 154) is **OVERRULED**.
2. Plaintiffs’ attendant request for oral argument (Doc. 156) is **DENIED AS MOOT**.
3. The R&R (Doc. 151) is **ADOPTED, CONFIRMED**, and made a part of this Order in its entirety.
4. The vexatious litigants motion (Doc. 100) is **GRANTED IN PART AND DENIED IN PART**:
 - a. The motion is **GRANTED** in that Plaintiffs are **DESIGNATED** vexatious litigants. Plaintiffs David W. Foley, Jr. and Jennifer T. Foley are hereby restricted from filing any pleading to open a

new case in this Division. Any new pleading filed by these Plaintiffs in this Division will be assigned to and reviewed by the judges assigned to this case. *See In re Vexatious Litigants in Orlando Div.*, No. 6:23-mc-3 (M.D. Fla. Jan. 18, 2023) (Doc. 1).

b. In all other respects, the motion is **DENIED**.

5. The sanctions motion (Doc. 73) is **DENIED AS MOOT**.

DONE AND ORDERED in Chambers in Orlando, Florida, on July 24, 2023.




ROY B. DALTON JR.
United States District Judge